

**Procedure for Reviewing Out Of State Applicants That Apply for DBE Certification, PROVIDED  
the firm is already certified as DBE in their home**

**Step One: DBE Firm applying for DBE certification to OMWBE must provide OMWBE with the following documents:**

1. A complete copy of the application form, all supporting documents, and any other information you submitted to your home state or any other state related to your certification. This includes affidavits of no change ( see §26.83(j)) and any notices of changes ( see §26.83(i)) that the firm submitted to your home state, as well as any correspondence it had with your home state UCP or any other recipient concerning your application or status as a DBE firm.
2. Any notices or correspondence from states other than your home state relating to your status as an applicant or certified DBE in those states. For example, if the firm has been denied certification or decertified in any other state, or subject to a decertification action there, you must inform OMWBE of this fact and provide all documentation concerning this action.
3. Any certification appeal(s) filed with DOT (see §26.89), specifically any letter of appeal and DOT's response
4. An affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States This affidavit or declaration must swear and/or affirm to the following facts:
  - 4.1 You have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to your home state, and
  - 4.2 If the on-site report from your home state supporting your DBE certification your home state is more than three years old, as of the date of your application to OMWBE, a statement that the facts in the on-site report remain true and correct.

**Step Two: OMWBE's Review Procedure of Out-Of-State DBE Applications from currently certified DBEs upon receipt of all the information required by 49 CFR 26.85(c):**

1. OMWBE will contact the DBE applicant's home state within seven (7) days and request a copy of the firm's site visit review report, (see §26.83(c)(1)), any updates to the site visit review, and any evaluation based on the site visit. **Note:** The home state must transmit this information OMWBE within seven days of receiving the request.
2. OMWBE will determine whether there is good cause to believe the home state's certification of the firm is erroneous or should not apply in Washington. Reasons for making such a determination may include the following:
  - (i) Evidence that the home state's certification was obtained by fraud;
  - (ii) New information, not available to the home state at the time of its certification, showing the firm does not meet all eligibility criteria;
  - (iii) The home state's certification was factually erroneous or was inconsistent with the requirements of this part;
  - (iv) Washington's state law requires a result different from that of the state law of the home state.

(v) The information provided by the DBE applicant firm did not meet the requirements of 49 CFR 26.85(c)

3. OMWBE will make a determination no later than sixty (60) days from the date OMWBE received from the DBE applicant all the information required by 49.CFR 26.85(c) that there is good cause to believe that the home state's certification is erroneous or should not apply in Washington, or send a notice to the firm that it is certified and place the firm on OMWBE's directory of DBE certified firms.

**NOTE, however**, if OMWBE does not receive a copy of the site visit review report within 14 days after it has made a timely request for it from the home state, OMWBE will await making a determination pending receipt of the site visit review report. However, in this event, OMWBE will notify the firm in writing of the delay in the process and the reason for it within thirty (30) days from the date on which it received all the information required by 49 CFR 26.85(c) from the DBE firm.

### **Step Three – Review of OMWBE's Determination**

1. If OMWBE determines there is good cause to believe the home state's certification is erroneous or should not apply in Washington, OMWBE will, no later than 60 days from the date on which it received from the applicant firm all the information required by 49 CFR 26.85 (c) send to the out-of-state DBE firm applicant a notice stating the specific reasons for OMWBE's determination why the firm does not meet the requirements of for DBE eligibility. This notice will also inform the firm that it has an opportunity to respond to OMWBE with respect to these reasons.

2. The firm may elect to respond in writing, to request an in-person meeting with OMWBE to discuss OMWBE's objections to the firm's eligibility, or both. If the firm requests a meeting, OMWBE will schedule the meeting to take place within 30 days of receiving the firm's request.

3. Burden of Proof: The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of 49.CFR 26.85 with respect to the particularized issues raised by OMWBE's notice. The firm is not otherwise responsible for further demonstrating its eligibility to OMWBE.

4. OMWBE will issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with OMWBE, whichever is later.

5. The firm's application for certification is stayed pending the outcome of this process.

6. OMWBE's decision may be appealed to the U. S Department of Transportation, Departmental Office of Civil Rights (See 49 CFR 26.89).